

REMARKS

Upon entry of the Amendment, Claims 1-10 and 12-66 will be pending in the application.

Claim 1 is amended to incorporate the subject matter of Claim 11, now canceled.

New Claim 66 is added. Support can be found, for example, of page 61, first and fourth full paragraphs of the specification as originally filed. No new matter is added.

Entry of the Amendment along with reconsideration and review of the claims on the merits are respectfully requested.

Response to Claim Rejections - 35 U.S.C. § 112

Claims 52-65 are rejected under 35 U.S.C. § 112, second paragraph, as assertedly being indefinite. The Examiner asserts that Claim 52 does not positively recite that the toner of Claim 1 must be present in the fixing device. The Examiner deems “for fixing” as intended use and suggests that the fixing device include the toner with the language “which comprises”.

Applicants respond as follows. Claim 52 is amended to recite “A fixing device which fixes ~~for fixing~~ the toner claimed in claim 1 onto a recording medium.” Applicants submit that Claim 52 now more clearly satisfies the requirements of 35 U.S.C. § 112, second paragraph.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the indefiniteness rejection.

Response to Claim Rejections - 35 U.S.C. § 103

Claims 1-65 are rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over each of Wilson (U.S. Patent No. 5,147,747), Matsubara (U.S. Patent No. 4,940,644), and O'Malley (U.S. Patent No. 3,967,962) in view of Kurose (U.S. Patent No. 6,344,302).

The Examiner cites Wilson, Matsubara, and O'Malley as each teaching block polyester resins for toners and related improved fixing applications. Wilson, Matsubara, and O'Malley each assertedly teach adjustability dependent on the crystalline and amorphous portion of the block polymers.

The Examiner cites Kurose as teaching the inclusion of rutile and anatase type titanium oxide in similar block polyester toners, and the Examiner asserts that it would have been obvious to one of ordinary skill in the art to include such known toner additives in the toners taught by Wilson, Matsubara, and O'Malley for their known intended use in the toner art with expectation of similar results for its known effect.

Applicants respond as follows.

Each of the references to Wilson, Matsubara, O'Malley and Kurose, fails to render obvious the present invention which is distinguishable from the disclosures of each of Wilson, Matsubara and O'Malley in view of Kurose.

The present invention requires that the toner contain *rutile-anatase type* titanium oxide as an external additive. With regard to this feature, the Examiner recognizes that Kurose et al. teaches the inclusion of rutile and anatase type titanium oxide in similar block polyester toners. However, Kurose et al describes that examples of titanium oxide include crystalline titania such as anatase titania and rutile titania, amorphous titania and the like (see column 3, lines 43-45). Namely, Kurose et al. does not disclose or teach the use of rutile-anatase type titanium oxide, or the advantages attendant thereto. The significance of using rutile-anatase type titanium oxide as compared to rutile type titanium oxide or anatase type titanium oxide is fully discussed at pages 58 to 62 of the specification of this application, which advantages are neither taught nor

suggested by the prior art. Furthermore, there is nothing in the prior art which suggests the desirability of using rutile-anatase type titanium oxide. Therefore, Applicants submit that Kurose et al. fails to render obvious the use of rutile-anatase type titanium oxide of the present invention.

Furthermore, amended Claim 1 requires the melting point of the block polyester to be 190°C or higher. By using such a polyester-based resin containing the block polyester having the above melting point, it is possible for a resultant toner to simultaneously exhibit the advantages of both of the block polyester and the amorphous polyester. That is, such a toner can have high mechanical strength (sufficient physical stability) due to the block polyester and exhibit a sufficient fixing property (fixing strength) due to the amorphous polyester over a wide temperature range. In particular, the melting point of the amorphous polyester is normally lower than that of the block polyester. Therefore, by incorporating such a block polyester, the above effect becomes more conspicuous, and thus a synergistic effect can be obtained. In contrast, none of the cited references disclose or teach this characteristic feature of amended Claim 1.

Furthermore, the cited references fail to disclose or suggest polyester-based resin which comprises a block polyester composed of a block copolymer and amorphous polyester having crystallinity lower than that of the block polyester, wherein the block polyester comprises a crystalline block and an amorphous block having a crystallinity lower than that of the crystalline block, and inclusion of the amorphous block in the block polyester makes it possible to improve compatibility or dispersibility between the block polyester and the amorphous polyester.

For the reasons stated in the above, Applicants submit that the cited references would not have been rendered *prima facie* obvious from the cited references.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a).

Response to Double Patenting Rejection

Claims 1-65 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as assertedly being unpatentable over claims 1-54 and 1-61 of copending Application No. 10/687,966 and 10/687,929, respectively. Although the conflicting claims are not identical, the Examiner asserts that they are not patentably distinct from each other because similar block polyesters are used for same toner applications.

Without conceding the merit of the provisional double patenting rejection, Applicants respond by concurrently filing a terminal disclaimer, which disclaims the terminal part of any patent granted on the present application which would extend beyond the expiration of the full statutory term of any patent granted on the '966 and '929 applications.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the provisional double patenting rejection.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
Appln. No.: 10/687,968

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Art Unit 1756

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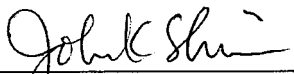
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